

SERVED: February 3, 1997

NTSB Order No. EA-4522

UNITED STATES OF AMERICA
NATIONAL TRANSPORTATION SAFETY BOARD
WASHINGTON, D.C.

Adopted by the NATIONAL TRANSPORTATION SAFETY BOARD
at its office in Washington, D.C.
on the 30th day of January, 1997

_____)	
BARRY L. VALENTINE,)	
Acting Administrator,)	
Federal Aviation Administration,)	
)	
Complainant,)	
)	Docket SE-14585
v.)	
)	
VAN MICHAEL CANFIELD,)	
)	
Respondent.)	
_____)	

ORDER DISMISSING APPEAL

The Administrator has moved to dismiss the appeal filed by the respondent in this proceeding because it was not perfected by the filing of a timely appeal brief, as required by Section 821.48(a) of the Board's Rules of Practice (49 CFR Part 821).¹ We will grant the motion, to which respondent filed no response.

¹Section 821.48(a) provides as follows:

§ 821.48(a) **Briefs and oral argument.**

(a) Appeal briefs. Each appeal must be perfected within 50 days after an oral initial decision has been rendered, or 30 days after service of a written initial decision, by filing with the Board and serving on the other party a brief in support of the appeal. Appeals may be dismissed by the Board on its own initiative or on motion of the other party, in cases where a party who has filed a notice of appeal fails to perfect his appeal by filing a timely brief.

The record establishes that respondent filed a timely notice of appeal from the oral initial decision the law judge rendered on October 2, 1996,² but he did not file an appeal brief within 50 days after that date; that is, by November 21, and he has not to date filed an appeal brief.³

In the absence of good cause for respondent's failure to perfect his appeal by filing a timely appeal brief, dismissal of his appeal is required by Board precedent. See Administrator v. Hooper, 6 NTSB 559 (1988).

ACCORDINGLY, IT IS ORDERED THAT:

1. The Administrator's motion to dismiss is granted, and
2. The respondent's appeal is dismissed.

HALL, Chairman, FRANCIS, Vice Chairman, HAMMERSCHMIDT, GOGLIA, and BLACK, Members of the Board, concurred in the above order.

²The law judge affirmed an order of the Administrator revoking respondent's airman and medical certificates for his alleged violations of sections 61.59(a)(2), 91.13(a), 91.531(a)(2), 135.63(c)(2), (3), (4) and (5), 135.63(d), 135.87(a), (b) and (c), 135.87(a)(4), and 135.397(b) of the Federal Aviation Regulations, 14 CFR Part 91.

³The record reflects that respondent had previously been furnished a copy of the Board's Rules of Practice.